

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

Chambers of  
**BENSON EVERETT LEGG**  
United States District Judge

April 19, 2001

101 West Lombard Street  
Baltimore, Maryland 21201  
(410) 962-0723

MEMORANDUM TO COUNSEL RE: Wayne B. Ewell v.  
Ventiv Health U.S.Sales, Inc., et al.  
Civil #L-00-3720

Dear Counsel:

I have reviewed the Motion for Remand and related papers. I have decided to deny the motion, but without prejudice to renewing it after discovery. A scheduling order, calling for a discovery period and a dispositive motions deadline, is being issued. After discovery, it will perhaps be clearer whether Ventiv Health, Inc., is merely a nominal defendant.

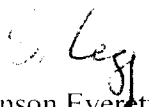
Service on Mr. Brosky was effective, even if he was the CEO and not the president of Ventiv Health, Inc. Ventiv Health has no "president" as such, and Brosky is the chief officer of the company. Service on Brosky was an effective means of notifying the company of the pendency of the suit and the need to answer or remove.

It is immaterial that Ventiv Health has been unable to identify "N. Chelli," who may have been a temporary employee. The Summons was mailed by Certified Mail, Restricted Delivery. It reached Ventiv Health's offices in New York. It was addressed to Mr. Brosky. Someone in Ventiv Health's mail room signed the receipt on Brosky's behalf. The person who signed for Brosky had the authority (whether actual or apparent) to do so. Plaintiff was entitled to rely on the signature of the employee put forward by Ventiv for processing mail on behalf of Brosky.

It appears, however, that Ventiv Health, as opposed to Ventiv Sales, was not Mr. Ewell's "employer" and that the plaintiff has no right of action against the company. Thus, Ventiv Health appears to be a nominal party. Discovery on that issue is appropriate. If the plaintiff's case survives summary judgment against Ventiv Health, then I will remand the case to the Circuit Court for Baltimore City for trial.

Despite the informal nature of this memorandum, it shall constitute an Order of Court of the Clerk is directed to docket it accordingly.

Very truly yours,

  
Benson Everett Legg

c: Court file

